

ORIGINAL

Approved: _____

KEDAR S. BHATIA
Assistant United States Attorney

Before: THE HONORABLE KEVIN NATHANIEL FOX
United States Magistrate Judge
Southern District of New York

- - - - - X
UNITED STATES OF AMERICA : FRCRP 5(c)(3) Affidavit
:
- v. - :
ERIC CRUZ, :
Defendant. :
- - - - - X

19 MAG 9 227

SOUTHERN DISTRICT OF NEW YORK, ss.:

FREDERICK PORCARO, being duly sworn, deposes and says that he is a Deputy United States Marshall with the United States Marshals Service, and charges as follows:

On or about June 21, 2013, "Eric Cruz" was charged by an Amended Indictment in the United States District Court for the Southern District of Texas. Count One charged him with conspiracy to possess with intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and 846. Count Two charged him with possessing with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B) and 18 U.S.C. § 2. *See United States v. Cruz*, 13 Cr. 358 (S.D. Tx.). On or about June 18, 2013, "Eric Cruz" pleaded guilty to Count Two.¹ On or about February 19, 2014, "Eric Cruz" was sentenced to 72 months' imprisonment to be followed by four years' supervised release. His sentence was subsequently reduced to 63 months' imprisonment to be followed by four years' supervised release.

¹ Although the docket shows that the Amended Indictment was filed on June 21, 2013, the docket also shows that the defendant pleaded guilty on June 18, 2013, to Count Two in that Amended Indictment. The Judgment for "Eric Cruz" confirms that he pleaded guilty to possessing with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B) and 18 U.S.C. § 2.

"Eric Cruz's" term of supervised release began on November 25, 2016, and is scheduled to conclude on November 24, 2020. On or about September 23, 2019, the United States Probation Office for the Southern District of Texas filed a Petition for Warrant or Summons for Offender Under Supervision, stating that "Eric Cruz" had violated the terms of his supervised release. On or about September 25, 2019, the Honorable Fernando Rodriguez, Jr., United States District Judge, issued an arrest warrant for "Eric Cruz."

A copy of the aforementioned Indictment, Petition for Warrant or Summons for Offender Under Supervision, and arrest warrant, together with the current docket of the pending proceedings before the United States District Court of the Southern District of Texas, are attached as Exhibit A and incorporated by reference here.

I believe that ERIC CRUZ, the defendant, is the same person as the "Eric Cruz," who is wanted by the United States District Court for the Southern District of Texas.

The bases for my knowledge and for the foregoing charge are, in part, as follows:

1. I am a Deputy United States Marshal with the United States Marshals Service, and I have been personally involved in determining whether ERIC CRUZ, the defendant, is the same person as the "Eric Cruz," named in the arrest warrant issued from the United States District Court for the Southern District of Texas on or about September 25, 2019. This affidavit is based upon my conversations with law enforcement officers and other individuals, as well as my examination of reports and other records. Because this affidavit is being submitted for the limited purpose of establishing the identity of the defendant, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported in this affidavit, they are reported in substance and in part, except where otherwise indicated.

2. Based on my review of documents from proceedings in the United States District Court for the Southern District of Texas, I know that, on or about September 25, 2019, the United States District Court for the Southern District of Texas issued a warrant for the arrest of a "Eric Cruz" (the "Arrest Warrant"). The Arrest Warrant was issued based on the filing of a Petition for Warrant or Summons for Offender Under Supervision against "Eric Cruz," on or about September 23, 2019 (the "Petition").

3. Based on my review of the Petition and publicly available court records, I have learned that:

a. On or about June 18, 2013, "Eric Cruz" pleaded guilty in the United States District Court for the Southern District of Texas to possessing with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B) and 18 U.S.C. § 2.

b. On or about February 19, 2014, "Eric Cruz" was sentenced to 72 months' imprisonment to be followed by four years' supervised release. His sentence was subsequently reduced to 63 months' imprisonment to be followed by four years' supervised release.

c. "Eric Cruz's" term of supervised release began on November 25, 2016, and is scheduled to conclude on November 24, 2020.

d. On or about May 2, 2019, on the recommendation of the United States Probation Office for the Southern District of Texas, the United States District Court for the Southern District of Texas entered an order discharging "Eric Cruz" from supervision, i.e., ending his period of active supervision, but retaining jurisdiction through November 24, 2020.

e. On or about September 23, 2019, the United States Probation Office for the Southern District of Texas filed the Petition, stating that "Eric Cruz" had violated the terms of his supervised release by committing various state law offenses. The offenses listed in the Petition stem from a domestic violence incidence on or about August 28, 2019.

f. On or about September 25, 2019, the Honorable Fernando Rodriguez, Jr., United States District Judge, issued an arrest warrant for "Eric Cruz."

4. Based on my review of law enforcement records and conversations with probation officers in the United States Probation Office for the Southern District of New York, I know that:

a. Between November 2016 and May 2019, when "Eric Cruz" was on supervised release as part of his February 19, 2014, sentence, he was supervised by the United States Probation Office for the Southern District of New York.

b. The Probation Office for the Southern District of New York requires that every supervisee report their current address and immediately notify the probation office of any subsequent moves.

c. "Eric Cruz" told probation officers that he lived at a particular address in New York, New York ("Address-1"). Probation officers visited Address-1 to conduct an in-home visit as recently as October 2017.

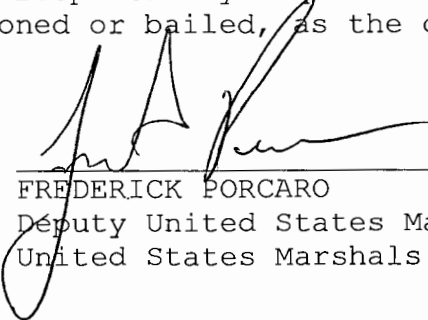
d. As of May 2019, when "Eric Cruz" concluded his term of active supervision, his address on file with the Probation Office for the Southern District of New York was Address-1.

5. On or about October 1, 2019, ERIC CRUZ, the defendant, was found and arrested at Address-1, i.e., his most recent address with the Probation Office for the Southern District of New York.

6. Based on my conversations with other law enforcement officers, I have learned that ERIC CRUZ, the defendant, stated, at or around the time of his arrest, that he believed his term of probation had been completed.

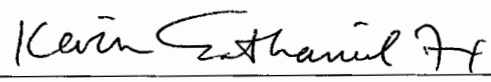
7. Accordingly, I believe the "Eric Cruz" sought in the Arrest Warrant is ERIC CRUZ, the defendant.

WHEREFORE, deponent respectfully requests that ERIC CRUZ, the defendant, be imprisoned or bailed, as the case may be.



FREDERICK PORCARO
Deputy United States Marshal
United States Marshals Service

Sworn to before me this
1 day of October, 2019



THE HONORABLE KEVIN NATHANIEL FOX
United States Magistrate Judge
Southern District of New York

EXHIBIT A

United States District Court
Southern District of Texas
FILED

JUN 21 2013

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

§

vs

§

CRIMINAL NO. B-13-358

ERIC CRUZ

§

ROLAND CARDWELL, JR.

JUAN ANTONIO RENDON-DIAZ,

and

MARIO ALBERTO RENDON

Amended
INDICTMENT

6-21-13

THE GRAND JURY CHARGES:

COUNT ONE

On or about April 17, ²⁰¹³~~2012~~, in the Southern District of Texas and elsewhere and within the jurisdiction of the Court, Defendants,

ERIC CRUZ,
ROLAND CARDWELL, JR.,
JUAN ANTONIO RENDON-DIAZ,
and
MARIO ALBERTO RENDON,

did knowingly and intentionally conspire and agree with persons known and unknown to the Grand Jurors to knowingly and intentionally possess with intent to distribute a quantity more than five hundred (500) grams of cocaine, a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(B).

COUNT TWO

On or about April 17, ²⁰¹³~~2012~~, in the Southern District of Texas and within the jurisdiction of the Court, Defendants,

ERIC CRUZ,
ROLAND CARDWELL, JR.,
JUAN ANTONIO RENDON-DIAZ,
and
MARIO ALBERTO RENDON,

did knowingly and intentionally possess with intent to distribute a quantity more than five hundred (500) grams, that is, approximately 2.28 kilograms of cocaine, a Schedule II controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B), and Title 18, United States Code, Section 2.

COUNT THREE

On or about April 17, 2013, in the Southern District of Texas and within the jurisdiction of the Court, the Defendant,

JUAN ANTONIO RENDON-DIAZ,

an alien illegally or unlawfully in the United States, did knowingly possess in and affecting commerce a firearm, to wit: a Bersa T-45 pistol, serial number B33638.

In violation of Title 18, United States Code, Section 922(g)(5)(A) and 924(a)(2).

A TRUE BILL:

FOREPERSON OF THE GRAND JURY

KENNETH MAGIDSON
UNITED STATES ATTORNEY

Joseph T. Leonard
Assistant United States Attorney

PROB 12C
(06/15)

UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF TEXAS

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Eric Cruz Case Number: 1:13CR00358-001

Name of Sentencing Judge: The Honorable U.S. District Judge Andrew S. Hanen

Date of Original Sentence: February 19, 2014

Date of Reduced Sentence, December 11, 2015
pursuant to 18 U.S.C. §
3582(c)(2):

Original Offense: Possession With Intent to Distribute a Quantity Exceeding Five Hundred (500) Grams, that is, Approximately 2.28 Kilograms of Cocaine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), and 18 U.S.C. § 2

Original Sentence: 72 months custody of the U.S. Bureau of Prisons, followed by a 4-year term of supervised release

Reduced Sentence. 63 months custody of the U.S. Bureau of Prisons, followed by a 4-year term of supervised release

Type of Supervision: Supervised Release Supervision Started: 11/25/2016

Supervision Expires: 11/24/2020

Assistant U.S. Attorney: Joseph T. Leonard Defense Attorney: R. Bruce Tharpe

Maximum Penalty Upon Revocation. Three (3) years custody of the U.S. Bureau of Prisons, pursuant to 18 U.S.C. § 3583(e)(3)

EARLIER COURT ACTION

On May 3, 2019, the United States District Probation Office for the Southern District of New York submitted a request for early termination/international travel. On May 2, 2019, United States District Judge Fernando Rodriguez, Jr., discharged Cruz from supervision only.

TRUE COPY I CERTIFY
ATTEST

Cruz, Eric
Dkt No 1:13CR00358-001
Page 2

PETITIONING THE COURT

To issue a warrant and set a Revocation Hearing to show cause why Supervised Release should not be revoked.

The probation officer believes that the offender has violated the following conditions of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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1	Mandatory Condition: Shall not commit another federal, state, or local crime
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Details: On August 28, 2019, in the County and State of New York, the defendant forcibly stole property and in the course of the commission of the crime and immediate flight therefrom, the defendant or another participant in the crime, caused physical injury to a person who was not a participant in the crime. Cruz was charged with Robbery in the Second Degree, in violation of PL 160.10(2)(a), in the Criminal Court of the City of New York City, New York.

On August 28, 2019, Eric Cruz was arrested by officers from the New York City, New York, Police Department. Cruz forcibly took the victim's purse after an argument. When the victim attempted to retrieve her purse, Cruz struck the victim with his closed fist on the right side of her face multiple times. Officers observed bruising and redness. Cruz took the purse from the location and fled the scene. The victim's two (2) minor children were present during the incident. Cruz was arrested later this day.

2	Mandatory Condition: Shall not commit another federal, state, or local crime
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Details: On August 28, 2019, in the County and State of New York, the defendant forcibly stole property. Cruz was charged with Robbery in the Third Degree, in violation of PL 160.05, in the Criminal Court of the City of New York City, New York.

On August 28, 2019, Eric Cruz was arrested by officers from the New York City, New York, Police Department. Cruz forcibly took the victim's purse after an argument. When the victim attempted to retrieve her purse, Cruz struck the victim with his closed fist on the right side of her face multiple times. Officers observed bruising and redness. Cruz took the purse from the location and fled the scene. The victim's two (2) minor children were present during the incident. Cruz was arrested later this day.

Cruz, Eric
Dkt. No. 1:13CR00358-001
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3 Mandatory Condition: Shall not commit another federal, state, or local crime

Details: On August 28, 2019, in the County and State of New York, the defendant, with intent to cause physical injury to another person, caused such injury to another person. Cruz was charged with Assault in the Third Degree, in violation of PL 120.00(1), in the Criminal Court of the City of New York City, New York.

On August 28, 2019, Eric Cruz was arrested by officers from the New York City, New York, Police Department. Cruz forcibly took the victim's purse after an argument. When the victim attempted to retrieve her purse, Cruz struck the victim with his closed fist on the right side of her face multiple times. Officers observed bruising and redness. Cruz took the purse from the location and fled the scene. The victim's two (2) minor children were present during the incident. Cruz was arrested later this day.

4 Mandatory Condition: Shall not commit another federal, state, or local crime

Details: On August 28, 2019, in the County and State of New York, the defendant knowingly acted in a manner likely to be injurious to the physical, mental, and moral welfare of a child less than seventeen years old. Cruz was charged with Endangering the Welfare of a Child, in violation of PL 26010(1), in the Criminal Court of the City of New York City, New York.

On August 28, 2019, Eric Cruz was arrested by officers from the New York City, New York, Police Department. Cruz forcibly took the victim's purse after an argument. When the victim attempted to retrieve her purse, Cruz struck the victim with his closed fist on the right side of her face multiple times. Officers observed bruising and redness. Cruz took the purse from the location and fled the scene. The victim's two (2) minor children were present during the incident. Cruz was arrested later this day.

5 Mandatory Condition: Shall not commit another federal, state, or local crime

Details: On August 28, 2019, in the County and State of New York, the defendant, with intent to cause physical injury to another person, attempted to cause such injury to another person. Cruz was charged with Attempted Assault in the Third Degree, in violation of PL 110/120.00(1), in the Criminal Court of the City of New York City, New York.

On August 28, 2019, Eric Cruz was arrested by officers from the New York City, New York, Police Department. Cruz forcibly took the victim's purse after an argument. When the victim attempted to retrieve her purse, Cruz struck the victim with his closed fist on the right side of her face multiple times. Officers observed bruising and redness. Cruz took the purse from the

Cruz, Eric
Dkt No. 1:13CR00358-001
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location and fled the scene. The victim's two (2) minor children were present during the incident. Cruz was arrested later this day.

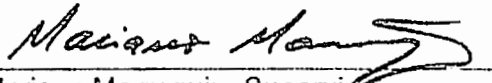
U.S. Probation Officer Recommendation:

- ☒ The term of supervision should be
- ☒ Revoked

I declare under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Approved:

Respectfully submitted.



Mariano Marroquin, Supervising
United States Probation Officer
September 23, 2019

By:



Celia Arrezola
United States Probation Officer
305226

RE: Eric Cruz
Dkt.No.: 1:13CR00358-001
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THE COURT ORDERS:

- ☐ No Action
- ☐ The Issuance of a Summons for a hearing to be held on _____ at _____.
- ☐ The Issuance of a Warrant, and a bond of \$_____ cash/surety with supervision as directed by the Probation Officer as a condition of said bond. Furthermore, that a revocation hearing be set to show cause why Probation/Supervised Release should not be revoked.
- ☒ The Issuance of a Warrant, and no bond be set. Further, that a revocation hearing be set to show cause why Probation/Supervised Release should not be revoked.
- ☐ The Issuance of a Violator's Warrant and no bond be set and that a revocation hearing to show cause why supervision should not be revoked be held at the time of disposition of the charge in Criminal Docket _____ in U.S. District Court in the _____ District of _____, Division.
- ☐ Other:

Fernando Rodriguez, Jr.

Fernando Rodriguez, Jr.
United States District Judge

September 25, 2019
Date

AO 142 (Rev. 11-11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the
Southern District of TexasUnited States of America
v.**Eric Cruz**
Defendant§
§
§
§
§
§

Case No. 1:13-CR-0358-01

ARREST WARRANT

To: Any authorized law enforcement officer

COPY

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
name of person to be arrested **Eric Cruz**
who is accused of an offense or violation based on the following document filed with the court:

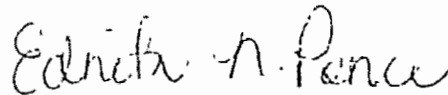
☒ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint
☒ Supervised Release ☐ Pretrial Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Violating the terms and conditions of Supervised Release imposed on February 19, 2014.

Date: Sep 25, 2019

City and State: Brownsville, Texas

*Issuing officer's signature*

Ednita N. Ponce, Deputy Clerk

Printed name and title

Return

This warrant was received on *(date)* and the person was arrested on *(date)*at *(city and state)*

Date:

*Arresting officer's signature**Printed name and title*

10/1/2019

DC CM/ECF LIVE- US District Court-Texas Southern

more than 500 grams, that is, approx. 2.28 kilograms of Cocaine
(2)

Fine waived.

Highest Offense Level (Opening)

Felony

Terminated Counts

Count 1: 21:846, 21:841(a)(1), and 21:841(b)(1)(B): Conspiracy to possess with intent to distribute more than 500 grams of Cocaine
(1)

Ct. 1: Conspiracy to possess with intent to distribute more than 500 grams of cocaine; 21 USC 846, 841(a)(1) and 841(b)(1)(B)
(1s)

Ct. 2: Possession with intent to distribute more than 500 grams, that is, approx. 1 kilogram of cocaine; 21 USC 841(a)(1) and 841(b)(1)(B) and 18 USC 2
(2s)

Disposition

Dismissed on Govts ORAL motion.

Dismissed on Government's Motion.

Dismissed on Government's Motion.

Highest Offense Level (Terminated)

Felony

Complaints

Knowingly and intentionally possess with intent to distribute approximately 2.28 kilograms of cocaine and did conspire with persons known and unknown to knowingly and intentionally possess with intent to distribute approximately 2.28 kilograms of cocaine; 21 USC 841 & 846

Disposition

Assigned to: Judge Fernando Rodriguez, Jr**Defendant (3)**

Juan Antonio Rendon-Diaz
TERMINATED: 07/01/2014

represented by **Juan Antonio Rendon-Diaz**
40254-379
U.S. Penitentiary
PO BOX 150160
Atlanta, GA 30315
PRO SE

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